

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LEVI GUPTON,

*Plaintiff,*

v.

CITY OF PHILADELPHIA, et al.,

*Defendants.*

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CIVIL ACTION  
NO. 17-3987

**ORDER**

**AND NOW**, this 14<sup>th</sup> day of February, 2019, upon consideration of Defendants' Motion to Dismiss the Amended Complaint (ECF No. 14) and the Response in Opposition thereto (ECF No. 18), it is hereby **ORDERED** as follows:

1. Defendants' Motion to Dismiss is **GRANTED**.
2. The Amended Complaint is **DISMISSED** without prejudice.
3. Plaintiff is given leave to file a second amended complaint within forty-five days from the filing of this Order. Any second amended complaint should not reassert the same claims raised in the Complaint or Amended Complaint. Upon the filing of a second amended complaint, the Clerk shall not make service until so **ORDERED**.
4. The Clerk of Court is **DIRECTED** to send Plaintiff a blank form complaint to be used by a prisoner filing a civil rights action bearing the civil action number for this case. Plaintiff may use this form to prepare his second amended complaint.
5. If Plaintiff fails to file a second amended complaint within the time specified herein, his case may be dismissed for failure to prosecute without further notice.

**BY THE COURT:**

/s/ C. Darnell Jones, II

**C. DARNELL JONES, II J.**